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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,586	06/21/2000	Scott B Heintzman	8477.99USC1	6546
7590		05/17/2007		
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			EXAMINER	
			LASTRA, DANIEL	
			ART UNIT	PAPER NUMBER
			3622	
			MAIL DATE	DELIVERY MODE
			05/17/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/598,586

Applicant(s)

HEINTZEMAN ET AL.

Examiner

DANIEL LASTRA

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 22 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 41-59,61-74 and 76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-59,61-74 and 76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 41-59, 61-74 and 76 have been examined. 09/598,586 is continuation of 08/892,563. Which is a continuation of 08/439,626, which is a continuation of 08/385,381 (Pat. No. 5,483,444), which is a continuation of 08/143,453 (dated 10/26/1993).

### *Response to Amendment*

2. In response to Non Final Rejection filed 09/22/2006, the Applicant filed an Amendment on 02/22/2007, which amended claims 41 and 61 and cancel claims 60 and 75. Applicant's amendment overcame the Section 112 rejection.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-59, 61-74 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lockwood (US 5,309,355) in view of LaRoche (US 5,239,460) and further in view of Lieberman (US 5,855,369) and Hawaii Hotels Hold Fast (Dialog file 16:01866487).

As per claims 41, Lockwood teaches:

A computerized on-line incentive system for awarding points to an agent conducting an on-line purchase for a customer, the system comprising:

- (a) an access device connected to a network (see column col 1, lines 35-45);
- (b) a computerized on-line sales environment, connected to the network and thereby accessible to the agent of the access device, the on-line sales environment permitting the agent to determine items that are for sale and conduct an on-line purchase of said items (see col 1, lines 35-45; col 8, lines 3-18);

Lockwood fails to teach:

- (c) an on-line award system connected to the network, the on-line award system being in communication with the on-line sales environment and possessing an account holding a point total corresponding to the agent, wherein the on-line awards system modifies the agent's point total in response to adjustment or cancellation of the online purchase. However, LaRoche teaches a system that rewards sales agents with award points based upon said agents performance, such as the number or dollar value of sales made by said agents (see LaRoche col 3, lines 20-45), Hawaii Hotels teaches an incentive program for travel agents, which awards points toward various prizes for each room booked by said travel agent at one of Aston's Hotels (see Hawaii Hotels paragraph 21) and Lieberman teaches a system where entrants are required to purchase a product and deposit proof that he has done so, in order to be eligible for a prize (see Lieberman col 1, lines 55-60). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that travel agents using the Lockwood's travel reservation system would be motivated to

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participate in the LaRoche's and Hawaii Hotels award system in order to motivate said agents to generate additional sales as said agents would be compensated with award points based upon the number or dollar value of sales made. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood, LaRoche and Hawaii Hotels would be motivated to award prizes to travel agents that place reservations to customers that purchased and attended said reservations or events, as taught by Lieberman in order that Lockwood, LaRoche and Hawaii Hotels don't finish giving prizes, which cost money, to agents for reservations that were later canceled and, therefore did not bring any revenue to the companies participating in said incentive programs.

As per claim 61, Lockwood teaches:

A computerized on-line method for awarding points to an agent conducting an on-line purchase for a customer, comprising the steps of:

a) receiving on-line purchase information from the agent via an access device connected to a network (see Lockwood column 1, lines 35-45; col 8, lines 5-10);

b) determining availability of an item to be purchased (see Lockwood column 7, line 62 – col 8, line 10);

Lockwood fails to teach:

c) communicating the on-line purchase information to an awards system following the purchase of said item.

d) awarding points to the agent based on the on-line purchase information; and

e) cumulating the points in a specified account for the agent.

However, LaRoche teaches a system that reward sales agents with award points based upon said agent performance, such as the number or dollar value of sales made (see LaRoche col 3, lines 20-45). LaRoche keep track of agents' awarded points in a specified account for the agents and display said points to the agents in real-time (see LaRoche col 4, lines 6-25) and Hawaii Hotels teaches an incentive program for travel agents, which awards points toward various prizes for each room booked by said travel agent at one of Aston's Hotels (see Hawaii Hotels paragraph 21). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that travel agents using the Lockwood's travel reservation system would be motivated to participate in the LaRoche's and Hawaii Hotels' award system in order to motivate said agents to generate additional sales as said agents would be compensated with award points based upon the number or dollar value of sales made.

Lockwood fails to teach wherein the on-line awards system modifies the agent's point total in response to adjustment or cancellation of the online purchase. However, the same argument made in claim 41 regarding this missing limitation is also made in claim 61.

As per claim 42, Lockwood teaches:

The computerized on-line incentive system of claim 41, wherein the computerized on-line sales environment comprises:

(a) a computerized reception component adapted to receive information relating to the on-line purchase (see column 8, lines 1-20);

(b) a computerized processing component adapted to process the information relating to the on-line purchase (see column 8, lines 1-20); and

(c) a computerized purchasing component adapted to effectuate the on-line purchase (see column 8, lines 1-20; col 1, lines 35-45).

As per claim 43, Lockwood teaches:

The computerized on-line sales environment of claim 42, wherein the reception component, processing component, and purchasing component reside on two or more computers that are in communication with each other and the network (see figure 1).

As per claim 44, Lockwood teaches:

The computerized on-line incentive system of claim 41, wherein the computerized on-line sales environment comprises:

(a) a computerized on-line purchase system adapted to receive the on-line purchase request (see col 8, lines 1-20);

(b) a conversion system adapted to convert the on-line purchase request into one or more different formats (see column 1, lines 25-50; figure 4); and

(c) an on-line purchase facility adapted to effectuate the on-line purchase (see column 8, lines 1-10).

As per claim 45, Lockwood teaches:

The computerized on-line incentive system of claim 41, wherein the computerized on-line sales environment comprises one or more on-line purchase computers connected to the network, the on-line purchase computers being adapted to receive, process, and effectuate the online purchase request (see figure 1).

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As per claims 46 and 62, Lockwood fails to teach:

The computerized on-line incentive system of claim 41, wherein the on-line award system further comprises a verifier classifying a point amount as pending until a predetermined event occurs and converting the pending point amount to a redeemable point amount after the occurrence of the event. However, LaRoche teaches an award system that verifies the number or dollar value of sales made by agents and based upon said verification awards said agents with award points (see LaRoche col 3, lines 20-45), Lieberman teaches a system where entrants are required to purchase a product and deposit proof that he has done so, in order to be eligible for a prize (see Lieberman col 1, lines 55-60) and Hawaii Hotels teaches an incentive program for travel agents, which awards points toward various prizes for each room booked by said travel agent at one of Aston's Hotels (see Hawaii Hotels paragraph 21). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood, LaRoche and Hawaii Hotels would be motivated to award prizes to travel agents that place reservations to customers that purchased and attended said reservations or events, as taught by Lieberman in order that Lockwood, LaRoche and Hawaii Hotels don't finish giving prizes, which cost money, to agents for reservations that were later canceled and, therefore did not bring any revenue to the companies participating in said incentive programs.

As per claims 47 and 63, Lockwood fails to teach:

The computerized on-line incentive system of claim 41, wherein the on-line award system further comprises a verifier classifying a point amount as pending for a



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predetermined amount of time after the assignment of the point amount and converting the pending point amount to a redeemable point amount after the predetermined amount of time. However, the same argument made in claim 46 is also made in claim 47.

As per claims 48 and 64, Lockwood fails to teach:

The computerized on-line incentive system of claim 41, wherein the on-line award system further comprises:

(a) a first verifier classifying a point amount as pending until a predetermined event occurs; and

(b) a second verifier maintaining the point amount as pending for a predetermined amount of time after the occurrence of the event and converting the pending point amount to redeemable after the predetermined amount of time. However, LaRoche teaches an award system that verifies the number or dollar value of sales made by an agent and based upon said verification awards said agent award points (see LaRoche col 3, lines 20-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood would participate in the LaRoche agent award system in order to motivate agents to increase sales by giving said agents awards points based upon said increase and Lockwood would verify the validity of said increase sales before giving said agent said points in order to avoid giving awards points to agents that did not create an increase of sales.

As per claim 49, Lockwood fails to teach:

The computerized on-line incentive system of claim 42, wherein the information relating to the on-line purchase includes a log-in identifier related to the agent. However, LaRoche teaches a system where agents log in to said system by entering an agent's identifier in order that said system gives awards to the correct agent's terminal (see LaRoche col 3, lines 20-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood's travel reservation system would be motivated to participate in the LaRoche's award system in order to motivate travel agents to generate additional sales as said agents would be compensated with award points based upon the number or dollar value of sales made.

As per claims 50 and 65, Lockwood fails to teach:

The computerized on-line incentive system of claim 41, wherein the on-line awards system further comprises a reporter adapted to report the point total assigned to the agent. However, LaRoche teaches a system that reports that point total assigned to an agent based upon said agents earned awarded points (see LaRoche col 4, lines 18-25). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood's travel reservation system would be motivated to participate in the LaRoche's award system in order to motivate travel agents to generate additional sales as said agents would be compensated with award points based upon the number or dollar value of sales made.

As per claims 51 and 66, Lockwood fails to teach:

The computerized on-line incentive system of claim 50, wherein the reporter reports on-line the point total to the agent. However, LaRoche teaches a system that reports agents' awarded point total in real-time (see LaRoche col 4, lines 18-25). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood's travel reservation system would be motivated to participate in the LaRoche's award system in order to motivate travel agents to generate additional sales as said agents would be compensated with award points based upon the number or dollar value of sales made.

As per claims 52 and 67, Lockwood fails to teach:

The computerized on-line incentive system of claim 50, wherein the reporter reports in a hard copy format the point total for the agent. However, LaRoche teaches a system that reports the awarded point total assigned to an agent (see LaRoche col 4, lines 18-25). LaRoche does not expressly teach a hard copy report. However, Official Notice is taken that it is old and well known in the computer art to print a document displayed in a computer display. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood's travel reservation system would be motivated to participate in the LaRoche's award system in order to motivate travel agents to generate additional sales as said agents would be compensated with award points based upon the number or dollar value of sales made.

As per claims 53 and 68, Lockwood fails to teach:

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The computerized on-line incentive system of claim 50, wherein the reporter reports a pending point total for the user. However, LaRoche teaches a system that indicates in real-time an agent awarded points. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood would include the LaRoche system in his system in order to give agents an incentive to increase sales and would indicate said agents the pending points that different tasks would earn said agents in order that said agents would use said points as an incentive to perform said tasks.

As per claims 54 and 69, Lockwood fails to teach:

The computerized on-line incentive system of claim 50, wherein the reporter reports a redeemable point total for the user. However, LaRoche teaches a system that indicate to agents the amount of redeemable point total which would be applied to a prize (see LaRoche col 4, lines 10-25). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood's travel reservation system would be motivated to participate in the LaRoche's award system in order to motivate travel agents to generate additional sales as said agents would be compensated with award points based upon the number or dollar value of sales made and also, would indicate to said agents the amount of redeemable points in order that said agents use said indication as motivation to increase sales.

As per claims 55 and 70, Lockwood fails to teach:

The computerized on-line incentive system of claim 41, wherein the on-line awards system awards a point amount to the user's account based on the monetary value of the on-line purchase. However, LaRoche teaches a system that rewards sales agents with award points based upon said agents performance, such as the number or dollar value of sales made (see LaRoche col 3, lines 20-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood's travel reservation system would be motivated to participate in the LaRoche's award system in order to motivate travel agents to generate additional sales as said agents would be compensated with award points based upon the number or dollar value of sales made.

As per claims 56 and 71, Lockwood fails to teach:

The computerized on-line incentive system of claim 41, wherein the on-line awards system identifies on-line whether the agent has previously received points. However, LaRoche teaches a system that identifies in real-time whether an agent has previously received points (see LaRoche col 4, lines 1-25). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Lockwood's travel reservation system would be motivated to participate in the LaRoche's award system in order to motivate travel agents to generate additional sales as said agents would be compensated with award points based upon the number or dollar value of sales made.

As per claims 57 and 72, Lockwood fails to teach:

The computerized on-line incentive system of claim 41, wherein the on-line awards system assigns a bonus point amount to the agent based upon a predetermined activity in conjunction with the on-line purchase. However, LaRoche teaches an agents' award system which assigns bonus points to agents based upon said agents quality performance (see LaRoche col 3, lines 20-45). Therefore, the same rejection applied to claim 41 is applied to claim 57.

As per claims 58 and 73, Lockwood fails to teach:

The computerized on-line incentive system of claim 57, wherein the on-line award system assigns the bonus point amount to the user based upon one or more given criteria. However, LaRoche teaches an agent's award system which assigns bonus points to agent based upon said agents quality performance (see LaRoche col 3, lines 20-45). Therefore, the same rejection applied to claim 41 is applied to claim 58.

As per claims 59 and 74, Lockwood fails to teach:

The computerized on-line incentive system of claim 42, wherein the information relating to the on-line purchase uniquely identifies the agent. However, LaRoche teaches a system where an agent is uniquely identified for the purpose of giving said agents award points for different activities (see LaRoche col 3, lines 20-45). Therefore, the same rejection applied to claim 42 is also applied to claim 59.

### ***Response to Arguments***

4. Applicant's arguments filed 02/22/2007 have been fully considered but they are not persuasive. The Applicant argues that the references cited in the Action's rejection fail the first prong of obviousness in that there is no suggestion or motivation to modify

or combine the references. The Examiner answers that Lockwood, LaRoche and Hawaii Hotels would be motivated to award incentive points to travel agents toward various prizes that place reservations to customers that have attended said reservations or events, as taught by Lieberman in order that Lockwood, LaRoche and Hawaii Hotels don't finish giving prizes, which cost money, to agents for reservations that were later canceled and, therefore did not bring any revenue to the companies participating in said incentive programs.

The Applicant argues that Lieberman is non-analogous art. The Examiner answers that contrary to Applicant's argument, Lieberman is analogous art because Lieberman teaches the requirement of a proof of purchase before giving a reward.

The Applicant argues that Applicant's invention is not in the same field of endeavor as Lieberman because according to the Applicant, his claimed invention relates to a computerized incentive system for awarding credits to person who book travel-related reservation. The Examiner answers that the Applicant is arguing about limitation not stated in the claims. Nowhere in Applicant's claims is recited anything about book travel-related reservation.

The Applicant argues that Lieberman is not reasonably pertinent to the particular problem with which the Applicant were concerned because Lieberman does not teach business that participate in travel-related reservation systems. The Examiner answers that, it is noted that the features upon which Applicant relies (*i.e.*, travel related reservation) are not recited in the rejected claim(s). Although the claims are interpreted

in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Applicant argues that only hindsight reasoning would lead to the inclusion of Lieberman because a person would have to search a nonanalogous area to find Lieberman. The Examiner answers that contrary to Applicant's argument, hindsight reasoning was not necessary to find Lieberman because Applicant's claimed invention is based on giving awards based upon purchases and Lieberman teaches that it is old and well known to give award to customers based upon proof of purchase.

The Applicant argues that if the Action continues to rely on unsupported contention, the Applicant request that the Examiner provide support for said contention. The Examiner answers that Lieberman is providing the support for said contention as Lieberman teaches that it is old and well known to give award to customers based upon proof of purchase.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

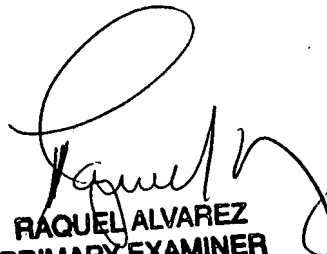


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DL

Daniel Lastra  
May 5, 2007

  
RAQUEL ALVAREZ  
PRIMARY EXAMINER